

### **REMARKS**

Claims 30, 35, 37, 38, 51, 54, 69, 70, and 73-82 are currently pending in the present application, including independent claim 35 and new claim 82. As shown above, independent claim 35 has been amended to require that the sanitizing formulation consist essentially of one or more nonionic surfactants, between about 0.01% by weight to about 0.4% by weight of at least one benzalkonium halide, between about 0.01% to about 0.5 % by weight of ethylenediaminetetraacetic acid and/or salts thereof, and a solvent. Support for these amendments can be found throughout the present application. (See e.g., pg. 16, line 8 – pg. 17, line 3). No new matter has been added by these amendments.

The Board upheld the Examiner's rejection of independent claims 27 and 35 under 35 U.S.C. §103 in view of Sherry, et al. in the decision mailed on Sept. 23, 2009. However, Applicants respectfully submit that presently amended claim 35 is patentable over Sherry, et al., either alone or in any combination.

Sherry, et al. is directed to hard surface cleaning compositions and their use with absorbent pads. Sherry, et al. describes several different types of compositions, specifically (a) "daily shower" compositions, (b) glass cleaner compositions, and (c) general purpose and conventional floor cleaning compositions. (See, respectively, col. 21, line 45 – col. 23, line 29; col. 23, line 30 – col. 24, line 36; and col. 24, line 37 – col. 25, line 67). Also, Sherry, et al. teaches that the glass cleaner compositions or the general purpose and conventional floor cleaning compositions (of b and c above) can be used in a premoistened wipe. (Col. 26, lines 1-6).

Sherry, et al. teaches in the "Premoistened Wipes for Floors, Counters, and/or Walls" section from col. 35, line 56 – col. 39, line 20 that the cleaning composition includes a hydrophilic polymer and an effective amount of a primary detergent surfactant, along with several optional ingredients described in compositions "b" and "c". (Col. 35, lines 58-60). The hydrophilic polymer is "essential" to the composition in order to improve the hydrophilicity of the surface being treated. (Col. 5, lines 45-48). In this premoistened wipe embodiment, an anti-microbial system can be included. The anti-microbial system can include the use of quaternary ammonium salts such as dimethyl benzyl ammonium chlorides. (Col. 36, lines 57-61 and col. 37, lines 22-32).

Sherry, et al. further teaches that an "important" benefit of the wet wipes they disclose is that fact that they "allow for residual disinfectancy benefits." (Col. 37, lines 33-39). By residual disinfectancy, Sherry, et al. means that the residual antimicrobial actives delivered by the wet wipe onto the hard surface at least about 99.9% cidal against bacteria and other microorganisms for a period of from about 8 to about 72 hours, more preferably from about 12 to about 48 hours, most preferably at least about 24 hours. Sherry, et al. teaches that the residual properties result from a combination of low vapor pressure and high cidal efficacy of the antimicrobial actives associated with the compositions of the present invention. (Col. 37, lines 39-56).

However, Sherry, et al. fails to teach or suggest the sanitizing formulation of independent claim 35. Nowhere does Sherry, et al. teach or even suggest a sanitizing formulation consisting essentially of one or more nonionic surfactants, between about 0.01% by weight to about 0.4% by weight of at least one benzalkonium halide, between

about 0.01% to about 0.5 % by weight of ethylenediaminetetraacetic acid and/or salts thereof, and a solvent, as required by independent claim 35.

In fact, Sherry, et al. teaches away from the wipe of independent claim 35, since the inclusion of a hydrophilic polymer is excluded from the sanitizing formulation of claim 35. Sherry, et al. specifically teaches that the hydrophilic polymer is “essential” to the composition in order to improve the hydrophilicity of the surface being treated. (Col. 5, lines 46-47). Thus, no rationale exists for one of ordinary skill in the art to omit such an “essential” ingredient in an attempt to somehow modify the formulation of Sherry, et al.

In fact, one of ordinary skill in the art would recognize that the omission of the “essential” hydrophilic polymer would destroy the intended purpose of the solution of Sherry, et al. Sherry, et al. specifically teaches that their premoistened wipes having antimicrobial actives provide residual antimicrobial actives delivered by the wet wipe onto the hard surface at least about 99.9% cidal against bacteria and other microorganisms for a period of from about 8 to about 72 hours, which is primarily due to the hydrophilic polymer included in the solution “as is prolongs the sheeting and cleaning benefits.” (Col. 5, lines 64-65 and col. 37, lines 30-43). This “residual antimicrobial actives” is the type of result that the wipers of independent claims 27 and 35 are designed to avoid by having the benzalkonium halide present within the released solution in an amount less than about 2000 parts per million of the released solution. Thus, the wiper of claim 35 may minimize the “residual antimicrobial actives,” which is important when the wiper is used in food service applications. For instance, the present application teaches that solutions released by wipers in the food service environments

are often required to contain a relatively small amount of the antimicrobial agent. For example, Title 21, Section 178.1010 of the United States Code of Federal Regulations sets forth various requirements for use of sanitizing solutions used on food-processing equipment, utensils, and other food-contact articles. (Pg. 1, lines 15-21).

Applicants also respectfully submit that for at least the reasons indicated above relating to corresponding independent claims, the pending dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims certainly does not hinge on the patentability of independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claims.

Applicants respectfully submit that the present application is in complete condition for allowance, and therefore respectfully request favorable action and reconsideration of rejections of the Office Action with regard to the above remarks. However, any further questions or concerns, the Examiner is invited and encouraged to contact the undersigned. Please charge any deficiencies or credit any overpayments required by this Response to Deposit Account No. 04-1403.

Respectfully requested,  
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